

December Sixteenth

20-----03

The Regular Meeting of City Council was held on the above date at 7:00 p.m. in the Council Chambers located on the Fourth Floor of the Municipal Building. The following Council Members were present: Ruby B. Archie, P. A. “Pete” Castiglione, Jr., E. Stokes Daniels, Jr., Mayor John C. Hamlin, T. David Luther, Sherman M. Saunders, H. Phillip Smith, and Vice-Mayor R. Wayne Williams, Jr. (8). Albert K. “Buddy” Rawley, Jr. was absent (1).

Administrative Staff Members present were City Manager Jerry L. Gwaltney, Deputy City Manager M. Lyle Lacy, III, City Attorney Timothy R. Spencer, Assistant City Attorney W. Clarke Whitfield, Jr., and City Clerk/Clerk of the Council Annette Y. Crane, CMC.

Other Staff Members present were Planning Associate Renee’ Blair, Community Development Director Jerry Fischer, Planning Director Ken Gillie, Planning Associate Lindy Lowery, and Emergency Services Director Doug Young

Mayor Hamlin presided.

INVOCATION AND PLEDGE OF ALLEGIANCE

- Council Member Saunders offered the Invocation. The Pledge of Allegiance to the Flag followed.

MINUTES

- Council Member Daniels moved the approval of the December 2, 2003 Council Minutes. Draft copies had been distributed to Council Members prior to the Meeting

Council Member Saunders seconded by the Motion.

Council Member Archie requested that under “Appointments,” the names Motley and Wright be shown as James Motley and Linwood Wright.

The Minutes were approved by the following vote:

VOTE:	8-0
AYE:	Archie, Castiglione, Daniels, Hamlin, Luther, Saunders, Smith, and Williams (8).
NAY:	None (0).

ABSENT: Rawley (1).

NEW ZONING AND SUBDIVISION REGULATIONS & ZONING MAP

Council Member Smith moved the adoption of an Ordinance entitled:

ORDINANCE

An Ordinance receiving the recommendation of the Planning Commission and amending the City Code by adopting New Zoning Regulations as well as a New Zoning Map for the City of Danville, Virginia.

Vice-Mayor Williams seconded the Motion.

Mayor Hamlin recognized Planning Director Ken Gillie. Mr. Gillie was asked by Mayor Hamlin to review requests received from citizens during the Public Hearing on the Zoning and Subdivision Ordinance and Zoning Map held by City Council on December 2, 2003.

(Clerk’s Note: Listed below are the newly proposed zoning districts):

Residential Districts

Threshold Residential	T-R
Suburban Residential	S-R
Neo-Traditional Residential	NT-R
Old Town Residential	OT-R
Attached Residential	A-R
Multi-Family Residential	M-R
Mobile Home Park	MHP-R

Office, Commercial and Industrial Districts

Transitional Office	TO-C
Neighborhood Retail Commercial	N-C
Central (Downtown) Business Commercial	CB-C
Tobacco Warehouse Commercial	TW-C
Highway Retail Commercial	HR-C
Planned Shopping Center Commercial	PS-C
Light Economic Development	LED-I
Cyber Park One	CP-1

Overlay and Special Districts

- Historic Preservation Overlay	HP-O
Airport Overlay	A-O
Floodplain Overlay	FP-O.

Mr. Gillie reviewed the requests and recommendations as follows:

1. A request from Attorney Mark Williams on behalf of R. J. Johnston and other property owners on Mockingbird Lane asked that the properties (parcel nos. 74884, 74885, 74886 [110 Mockingbird Lane], 74887 [114 Mockingbird Lane], 74888 [107 Mockingbird Lane], 74889, 74874, 74882, 74881) be zoned (Highway Residential-Commercial) HR-C rather than the Threshold-Residential (T-R) that is proposed. The Johnston property is currently zoned C-2 while the residential homes to the north are zoned R-IB. Mr. Gillie said that while staff was usually not in favor of creating non-conforming residential uses by zoning property commercial, the site in question is isolated on two sides by major roadways and flood plain to the south; therefore the planning staff could support changing the entire area to HR-C.

Council Member Archie moved to accept the change as recommended by the planning staff. The Motion was seconded by Council Member Luther and approved by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

2. A request from Debbie Thomas of 507 Bermuda Road not to zone 500 Bermuda Road (parcel no. 76560) and additional property (parcel no. 76557) fronting on South Boston Road owned by Zelma Gilbert to Neighborhood-Commercial (N-C), but maintain a Suburban-Residential (S-R) designation. Mr. Gillie said the planning staff did not support the request. The planning staff felt that these properties were not suitable for residential development and that N-C is the proper zoning for the parcels.

Council Member Saunders expressed concerns about Ms. Thomas' privacy, since the new zoning falls directly at the back of her property. During the public hearing, Ms. Thomas said she had a swimming pool in her backyard and she had expressed privacy concerns.

Mr. Gillie said the N-C requirements had a buffer provision between residential and commercial development that should adequately protect visibility to Ms. Thomas' property. He said there is also a provision that if a landscape buffer is not sufficient, then it can be required that a fence be placed between the properties. Mr. Gillie said there was also a provision that a buffer be of sufficient height to ensure privacy. In response to Mr. Saunders, Mr. Gillie said Ms. Thomas would be allowed to negotiate with a perspective developer concerning privacy issues.

Council Member voiced no objections to the planning staff's recommendation.

3. A request from Mike Leggett to better address agricultural uses in the Threshold-Residential (T-R) district either by modifying the district to add additional uses by special Use Permit or by creating a new zoning district. Mr. Gillie said the planning staff recommended that Council direct the Planning Commission to create a completely new zoning classification or Overlay District to address the concerns of these property owners. He said the issue is being addressed by planning and is tentatively titled Sandy River District. Mr. Gillie said staff would recommend adoption of the current T-R classification as presented at this time so as not to delay the zoning process. He said this was agreeable with Mr. Leggett so long as it was on record that Council's intent was to create a new agricultural-type district (AG) to serve their needs.

In response to Vice-Mayor Williams, Mr. Gillie said that residents who live closed to the area in question would be notified of any zoning changes as they arise. Mr. Gillie said it is hoped that creation of the new district as well as any zoning changes could be address concurrently so any resident desiring input could be present for future meetings on both matters.

Mayor Hamlin requested that the planning staff in a timely-manner address the issue.

Council Member voiced no objections to the planning staff's recommendation.

4. A request from Jeff Rodden that is the same as Item #3 and was addressed the same (create AG-type district).
5. A request from Scott Jarrett that the property at 2003 South Boston Road (parcel no. 77306), owned by Bert Sellers, not be zoned Highway Residential-Commercial (HR-C). The lot is located at the corner of Sellers Road and South Boston Road. Mr. Gillie said it was the opinion of the planning staff that the property is not suitable for future residential development because of adjacent commercial uses and heavy traffic on South Boston Road. The staff felt that HR-C was the proper zoning for the parcel.

In response to Vice-Mayor Williams, Mr. Gillie said the property is currently zoned R1-B Residential, but the property owner would like the commercial designation for potential development of the property.

Dr. Williams felt it was reasonable to support the neighbors of the area since the entrance to the neighborhood is across the street from the property in question. He felt the property should be left as “residential” for that reason. If, in the future, it appears that the area was going “commercial,” then it would be reasonable to work with the neighbors as far as rezoning is concerned.

Vice-Mayor Williams moved to amend the HR-C recommendation of the planning staff to S-R. Council Member Castiglione seconded the Motion.

Council Member Smith felt that with a corner lot such as this one, it would be preferable to have an N-C zoning designation, since buffer requirements in the N-C designation would address any neighboring property privacy concerns.

The Motion was adopted by the following vote:

VOTE: 5-3
AYE: Archie, Castiglione, Daniels, Saunders, and Williams (5).
NAY: Hamlin, Luther, and Smith (3).
ABSENT: Rawley (1).

Mr. Jarrett also requested that the property owned by Lakeside Farms (parcel no. 75006) be zoned T-R rather than LED-1 as proposed by the planning staff. This is the portion of property in the City that should serve as access to the joint City/County Mega Industrial Park. The planning staff recommended that the parcel be zoned industrial to support the City’s portion of the park.

Council Member Luther moved to accept the recommendation of the Planning Staff and zone the property LED-I. The Motion was seconded by Council Member Castiglione and adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders, Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

Mayor Hamlin said Item Nos. 6, 22, & 23 would be addressed concurrently, since each pertained to the same area.

6. A request by John Hunnicutt that the Love property in Southwyck Farms (parcel nos. 54112, 54142, & 54143) be zoned T-R instead of the S-R designation as recommended by the Planning Commission. Mr. Gillie said the item had been debated at many meetings and at the Planning Commission level with the Planning Commission recommending that this area be zoned S-R.

Item No. 22 - A request by Lois Love, who spoke in favor of the Planning Commission's recommendation to zone property that she owns in Southwyck Farms as S-R. Mr. Gillie said the item had been debated at many meetings and at the Planning Commission level with the Planning Commission recommending that the area be zoned S-R.

Item No. 23 - A request by Mark Gignac that the Love property in Southwyck Farms be zoned T-R instead of the S-R designation as recommended by the Planning Commission. Mr. Gillie said this item, too, had been debated at many meetings and at the Planning Commission level. The Planning Commission had recommended that the area be zoned S-R.

Council Member Luther moved that the Love property in Southwyck Farms be zoned T-R. Council Member Smith seconded the Motion.

Council Member Castiglione said this issue had been one that he could not get a good feel for what the people who reside at Southwyck Farms desire. Mr. Castiglione said he had heard from residents on both sides of the issue. He said the residents want assurance the value of their property would remain equal or to rise. Mr. Castiglione said he had no problem with that. He said other issues of concern for the residents were density of residences in the Southwyck Farms area and the ability to enter and exit the neighborhood.

Mr. Castiglione, who said the property would be effected by the "net developable" clause in the zoning ordinance, read an excerpt from the clause as follows: No residential lot shall be created in which an area of more than 25% of the total lot area is comprised of one or more physical land units, i.e., slopes – thirty (30) degrees or greater. Mr. Castiglione said there were slopes 30 degrees or greater in Southwyck throughout the whole area in question. Secondly, wetlands. He said there were wetlands on the property. Thirdly, 100-year flood plains, and finally, streams, rivers, or other water features are included in the clause. For example, Mr. Castiglione said that if an individual owned an acre under S-R and 1/4 of that acre had slopes that were 30 degrees or greater, then only $\frac{3}{4}$ of that acre would be developable for one home, based on S-R criteria. Planning Director Gillie said that was basically correct; however, there could be other features that could limit the use even more. Mr. Castiglione felt those features would protect the density

of development in Southwyck as well as protect the value of present residences and any future home construction. He felt this would limit access to the area, as well. Mr. Castiglione said he did not see a problem with the residents getting what they want by keeping the zoning as S-R.

In response to Council Member Archie, Mr. Gillie said that if this same issue came up in other residential areas of the City, there would need to be consistency in zoning matters that are similar to Southwyck. Mrs. Archie said that if this area is zoned T-R, then it would have to be done in other areas as well.

Council Member Luther said requirements for T-R were similar to an S-R designation. He said there were many restrictions on the land in Southwyck as there isn't a lot of useful land due to slopes, etc. He felt that if there were further develop of the property, a bridge was needed. The only two options for making money were to either construct very expensive homes or very nice apartments and use the land in a high-density manner. Mr. Luther expressed concern about traffic in the area if there was high-density use.

Mr. Luther said during a recent public hearing, it was decided that T-R was the way to go and at some point it was changed back to S-R. He said he was bothered by the change. He recalled that at two of the public hearings, he commented that if a piece of property is rezoned in Danville, everyone who resides within a certain number of feet of the property, gets a notice of the rezoning request. This allows everyone who is interested to come to the hearing to protect his/her property. Mr. Luther said that if every single lot in Danville is going to be rezoned, then notice should be sent to every person in Danville. He said he was told this was not practical. Mr. Luther said it is the law now and if he was not mistaken it was the law last year. Changing the zoning in Southwyck from T-R to S-R gives the appearance of ineptness. Mr. Luther expressed his concern about the issue.

City Manager Gwaltney said this law was basically unknown among most localities in the Commonwealth. In fact, the Virginia Municipal League and others lobbied it heavily. Everyone left Richmond thinking the law had not passed at the last session. Following research by City staff members, it was found out that Danville is only the second locality in the State to be caught up in zoning matters since the law was passed. Mr. Gwaltney said this is a little known law that slipped through and no one knew about it. In the midst of all this, staff had to step back and review what was being done in order to be in conformity with the new law.

Mr. Luther said he did not wish to convey that this was being done intentionally, but wished to point out he did make the request that everyone be notified. He felt staff could have taken a look to find out whether or not this was the law.

In response to Vice-Mayor Williams, Ken Gillie said that under the present S-R designation,

anyone who wishes to construct high-density type housing, such as attached dwellings, would be required to submit a plan in greater detail than current requirements to the Planning Commission for a Special Use Permit. A traffic study is also required. All neighbors would be notified and allowed a voice in a Public Hearing before the Planning Commission. The matter would then be brought before City Council in Public Hearing for final action.

Dr. Williams said this information is important for all S-R designations throughout the City.

The Motion to change the zoning designation from S-R to T-R **FAILED** by the following vote:

VOTE: 3-5
AYE: Hamlin, Luther, and Smith (3).
NAY: Archie, Castiglione, Daniels, Saunders, and Williams (5).
ABSENT: Rawley (1).

Mayor Hamlin announced the property remains at S-R.

7. A request from Chris Dunlap regarding property at 2331 & 2333 Riverside Drive, that are zoned HR-C. The HR-C is acceptable, but Mr. Dunlap had concerns with the proposed setback requirements of forty (40) feet instead of the twenty (20) feet that exists in the current C-2 requirements. Mr. Gillie said the planning staff recommended that this not be changed. The property is currently legal non-conforming in regards to its building environment and will stay that way under the proposed code. Mr. Dunlap also requested that this district allow warehousing. In HR-C, this is permitted under Section C.8. He also requested the service of heavy equipment. Heavy equipment sales and service is permitted in LED-1 and M-1 districts that are industrial and heavy intensive use based. The HR-C is light automobile/retail related. Mr. Gillie advised that Planning does not support this request as existing heavy equipment yards will be legal non-conforming and new facilities of this kind should locate in industrial areas.

Council Member Daniels expressed concern about the forty (40) feet setback requirements. He said this should not be changed simply because it is the trend to do so.

No Council Member voiced objection to the Planning Commission recommendation.

A request from Chris Dunlap that 1074 & 1080 Franklin Turnpike (parcel nos. 54197 & 52321), and a vacant parcel no. 52322 be zoned N-C instead of Old Town-Residential (OT-R). These are currently occupied single-family residences, which is why staff recommended OT-R.

The property to the north is proposed to be zoned N-C. Mr. Gillie said the planning staff support this amendment, as it will only add a small area of commercial land to the entire area.

Council Member Castiglione moved to accept the staff recommendation to change the zoning from OT-R to N-C. The Motion was seconded by Council Member Archie and adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

A request from Chris Dunlap that 375 Justin Lane (parcel no. 77883) be changed from Light Economic Development (LED-I) to Manufacturing-Industrial (M-I). The concern that was expressed was the ability to have outside storage. The property is currently zoned M-2 Heavy Industrial. Mr. Gillie said staff proposed LED-I due to the proximity to residences on Bradley Road and Fairhaven Drive, but is agreeable with the argument presented in the meeting that this site is not highly visible from these locations. He said that staff could support the changes of this parcel to M-I.

Council Member Smith moved to accept the change to M-I as supported by the Planning staff. The Motion was seconded by Council Member Castiglione and adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

Due to a possible conflict of interest, Mayor Hamlin turned the chair over to Vice-Mayor Williams. Mayor Hamlin is Operations Manager for Danville Distributing Company and the upcoming item pertained to a request made on behalf of the company.

8. A request by Attorney James Daniel on behalf of Danville Distributing Company in support of the Planning Commission recommendation to change certain parcels on Gatewood Avenue (parcel nos. 54700, 54707, 54702, 51956), to LED-I. Mr. Gillie advised that staff supports the Planning Commission's recommendation on this matter.

Council Members voiced no objections and Vice-Mayor Williams announced the Planning Commission's recommendation stands.

Mayor Hamlin returned to the Chair.

9. A request made by Larry Soyars that (parcel nos. 70938 & 70939) 464 & 474 Church Avenue be HR-C and not S-R as shown. Mr. Gillie advised that staff was in agreement with Mr. Soyars' request, as the map should have reflected the change prior to the Planning Commission meeting.

Council Member Castiglione moved to make the change from S-R to HR-C as recommended by the Planning Commission. Council Member Archie seconded the Motion and was adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

10. A request by Bill Weaver to create a mixed use zoning district for the area to the south of the Pinetag subdivision that is proposed to be zoned T-R. Mr. Weaver requested that the new district allow for some type of commercial/light industrial development along Corning Drive and a residential component to the rear (north). Mr. Gillie said that if Council concurs with this request and approves the request, staff would need to work with Mr. Weaver to further define the types of uses that he envisions and then on drafting a new district to match these ideas.

Council Member Luther asked if there would be a problem with subdividing each piece of the property and have each section zoned according to use instead of drafting a completely new district to meet Mr. Weaver's needs. Mr. Gillie said the lot's frontage was along Corning Drive so there could be no subdivision to the rear.

Council Member Daniels moved that the Planning Commission work with Mr. Weaver to formulate a transitional type of zoning.

City Manager Gwaltney asked that neighboring residents be involved while working through the zoning process for Mr. Weaver. Mr. Gillie assured Council Members that neighboring residents would be involved.

Vice-Mayor Williams felt there were adequate numbers of well-defined zoning categories to cover any type of development. He said that to come up with a category that provides for both commercial and residential is contradictory. If a portion of Mr. Weaver's property is to be residential, then Dr. Williams felt it should be appropriately zoned to fit rules and regulations already in place.

Council Member Smith said he wished to address this "tailor-made" zoning issue. Mr. Smith said this was the second instance about which there was a request to expand the zoning designations beyond what has been many months in the works. He said he did not want the public to get the idea that Council would be creating "tailor-made" zoning designations as a rule.

In response to Council Member Castiglione, Mayor Hamlin said that on this particular issue, Council is asking the Planning department to work with the owner and bring the plans back to the Planning Commission.

Mr. Castiglione agreed with Council Member Smith and Vice-Mayor Williams and asked that in the Planning recommendations, the words "then work on drafting a new district to match these ideas" be removed from the recommendations and asked that Mr. Gillie's response be "work within the parameters that are presently in place and bring the matter back, if it becomes necessary."

City Manager Gwaltney said the goal for this particular issue is to maintain the integrity of the area, work with the neighbors, and to allow for the most beneficial use of the property.

Mr. Daniels' Motion failed for lack of a second.

Mayor Hamlin asked that Mr. Gillie and the planning staff work with the property owner on this issue and come back with the proposal.

Council Members took no action on this matter.

11. During the Council Public Hearing held on December 2, 2003, Bob Holland had spoken in favor of the Planning Commission's recommendation to zone 3032 Westover Drive (parcel no. 71741) from N-C to S-R. Mr. Gillie said staff is supportive of Mr. Holland's request.

Council Members voiced no objections to Mr. Holland's request.

12. A request made by Bill Sterner to continue existing C-2 regulations into the new

HR-C district in regards to uses, setbacks, lack of landscaping, outdoor storage, lot size and frontage, number of curb cuts and no open space requirements. Mr. Gillie said staff is not supportive of the change in uses, setbacks, outdoor storage, lot size and frontage requirements as well as the number of curb cuts. The lot frontage and size existing in the C-2 requirements are worthless for planning purposes. The existing frontage of thirty (30) feet is less than the minimum necessary to meet the two (2) twenty foot side yards and the lot area of 6,000 square feet is practically impossible to build on. The number of curb cuts has been an issue that has never been adequately addressed in the zoning code and the City has only had VDOT standards to rely upon. Mr. Gillie said this has left the number and location up to much interpretation and it has been the consensus of all parties that some definitive controls on the number and location of curb cuts are necessary. The staff believes that the proposed number and location are not excessive and will help to promote orderly, controlled access to our streets and highways. He said the staff recommends the following waiver provision that will allow for the shifting of the green space to other areas of the property while still preserving the same amount of pervious surface and net open space. staff also recommends the following waiver provision that would allow for the shifting of the green space to other areas of the property while still preserving the same amount of pervious surface and net open space. The wording is as follows:

- 1) Change the wording of paragraph #8 on page 235 to “however, an applicant may apply for a waiver from the Planning Department for an amount of landscaped area to be provided on site similar to the buffer area that will be lost by not providing the required ten (10) foot setback. If the waiver is not granted, then the applicant may appeal to the Planning Commission for its recommendation to City Council.

City Manager Gwaltney advised that Planning Director Gillie would review schematics on a number of examples of setbacks that are required under the current code and required under the proposed code. Mr. Gillie reviewed the following properties:

- a) 500 Bermuda Road
- b) Clover Lane
- c) Green Acres Drive & South Boston Road
- d) 1080 Riverside Drive
- e) South Main Street
- f) 612 Piney Forest Road, and,
- g) Crown Drive.

Following the review, Mr. Gillie said under the new rules in HR-C, there is a requirement to

allow for waivers of the yard setbacks by Special Use Permit. This is not allowed under the current C-2 requirements.

Council Member Daniels felt there was too much government in some of the requirements and that they were too stringent. He said he did not have a problem with the proposed new zoning ordinance.

City Manager Gwaltney said that he, along with planning staff, had met with the City’s major developers. They felt the original setback requirements were pretty substantial, but after working through the process and with a waiver provision, the group was able to come to a mutual understanding.

Mr. Gwaltney said there had been a lot of misinformation about these matters and that staff had worked diligently to develop a zoning plan and subdivision plan that was best overall for the City. He said he had asked the planning staff to sit down with other developers to go through the new plan and attempt to work out any differences without being overly dogmatic.

Mayor Hamlin felt the documents should lay over to another Council meeting in order to give any one who did not have input during one of the Planning Public Hearings to do so.

Council Members Castiglione and Luther agreed that Council action should wait. Mr. Luther said he had heard from area developers and builders who had expressed concerns about the proposed document.

Vice-Mayor Williams moved to amend the recommendations to make a waiver part of provisions and a part of the new zoning ordinance.

Council Member Smith seconded the Motion.

Council Member Saunders inquired if curb cuts could be addressed in this Motion. At the request of Mayor Hamlin, Mr. Saunders agreed to reintroduce the issue later in the meeting.

The Motion to amend was adopted by the following vote:

- VOTE: 7-1
- AYE: Archie, Castiglione, Daniels, Hamlin, Saunders, Smith, and Williams (7).
- NAY: Luther (1).
- ABSENT: Rawley (1).

Council Member Saunders expressed concern that curb cuts have not been adequately addressed, leaving some issues still open. Planning Director Gillie said the number of curb cuts is not addressed in the present code. He said the engineering department currently looks at using VDOT standards and what they feel is best for the property. Mr. Gillie said he had worked with the engineering staff to develop a set of standards that would adequately address the curb cuts.

In response to Council Member Saunders, Mr. Gwaltney said development of the new code has been a monumental undertaking. He said that once it is adopted, there would still be issues that would need clearing up.

Mr. Saunders said he would like to see closure at some point; otherwise the issue would come up year after year.

Mayor Hamlin announced a recess at 9:20 p.m. The meeting was reconvened at 9:35 p.m.

2) Mr. Gillie advised that staff recommends removal of paragraph #11 on page 259. He said the section required additional landscaped area on major arterial streets. This was to have been corrected in a previous version, but remains.

Council Member Daniels moved to remove paragraph #11 on page 259 as recommended by the staff. The Motion was seconded by Council Member Luther and adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

13. Richard Carlton spoke on the same issues presented by Mr. Sterner in Item #12 requesting that the proposed green space requirements and the change to a forty (40) foot front yard setback be delayed. The planning staff is not supportive of the setback change, but is supportive of the waiver provision presented in Item #12, which will allow for the shifting of the green space to other areas of the property while still preserving the same amount of pervious surface.

14, 15, & 16. During the December 2, 2003 Council Public Hearing, Laura Still, Ruby Doss, and Betty Burnett spoke in favor of the Planning Commission's recommendation to zone 3032 Westover Drive from N-C to S-R, (Addressed in Item #11 above).

17. John Foster spoke on three (3) items:

A request that 2137 South Boston Road (parcel no. 77131), 112 & 113 Gough Street, 121 Gough Street, 129 Gough Street & 142 Gough Street (parcel nos. 77133, 77134, 77135, 77136, 77191 & 77137) be zoned HR-C. Mr. Gillie advised that as is clear from the written comments presented by Mr. Foster, both 113 & 121 Gough Street are occupied single family dwellings, although 113 is zone C-2. The planning staff had proposed zoning this entire street S-R as it is occupied with single-family dwellings. Mr. Foster raised a valid point that since the adjacent residential area (Crystal Lane) is zoned HR-C, then in order to be consistent, this area should also be zoned HR-C. Mr. Gillie advised the planning staff is supportive of this amendment.

Council Member Smith moved to amend the recommendation as supported by the planning staff and give a zoning designation of HR-C. The Motion was seconded by Council Member Castiglione and adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

2. Mr. Foster stated that due to new N-C requirements, the property at the corner of Bermuda Road & South Boston Road would only be developable with a 1,000 sq. ft. building rendering the property financially unfeasible to develop. Mr. Gillie said the planning staff respectfully disagreed with Mr. Foster's assessment. Staff calculated that a 2,700 sq. ft. office building could be constructed on this site and be in full compliance with all requirements as written. If the waiver provision listed in item #12 is approved, this site has the potential to house an even larger building. It should be noted that Mr. Foster's existing adjacent building is 2,756 sq. ft., so even with the additional requirements as presented by the proposed ordinance, there is only a 56 sq. ft. decrease in building size. Mr. Gillie advised that in addition, Mr. Foster questioned the increase in rear setback in the N-C district versus the HR-C district. The reason this requirement was included in the N-C zoning is that this is a neighborhood commercial district and as the name implies is more likely to be placed off major thoroughfares and possibly even in neighborhoods where it will directly abut the residential development of the neighborhood that it is intended to serve. A five (5) feet additional setback will afford additional protection to adjacent residential uses.

Mr. Foster contended that due to new HR-C requirements, this lot would suffer from a 57.2%

reduction in lot area. The front yard requirements that Mr. Foster lists are the building setbacks, not required area for green space and can have such things as parking spaces in them. This means this area will be unusable. While these numbers are higher than those of the N-C district, they do not require that parking be factored into the setback area. Mr. Gillie offered the N-C regulations for a front yard as follows:

Front Yard: Twenty-five (25) feet provided that no parking is located within a front yard. If parking is provided, the front yard shall be the depth of the parking plus 25 feet.

The HR-C regulations are:

Front Yard: Forty (40) feet provided that a 20-foot setback is required for the outdoors display of items with the front yard.

Mr. Gillie said that what this all comes down to is that buildings are required to be farther from property lines in HR-C districts due to their anticipated larger bulk and square footage, but we are more lenient in how we allow for parking to be located to serve these larger structures.

Mr. Gillie advised the majority of the subdivision issues had been addressed in Mr. Sterner's comments in Item #12. The 150-foot frontage that the planning staff has proposed is to allow for some flexibility in designing workable driveway entrances onto lots. The minimum amount of frontage on the corner lot to meet the presented driveway standards with a standard forty (40) foot commercial entrance is 135 feet and on interior lots, 80 feet of single entrance and 220 for two (2) entrances on the same frontage. The planning staff believes that 150 feet of lot frontage is a number that allows for design flexibility for both corner and interior lots while not being excessive. If Council is in disagreement with this lot frontage requirement, staff would recommend that the frontages be no less than 135 feet for corner lots and 90 feet for interior lots. The planning staff recommended that the 30,000 sq. ft. size not be changed.

Council Members voiced no objections to the planning staff's recommendation.

18. Ken Ferrell spoke in favor of the Planning Commission's recommendation to zone property across from Southwyck Plaza Shopping Center (parcel no. 75859) on South Main Street to HR-C and property on the north of Franklin Turnpike (parcel nos. 70060 & 58497) at the City Corporate Limits to N-C. Mr. Gillie advised that staff is supportive of both requests.

Council Members voiced no objections to staff support on both requests.

19. Charles Curtis spoke about Item #3 above and the planning staff proposed that this property be addressed the same.

20. Ernie New of Associated Services spoke in opposition to the proposed parking requirement of one (1) parking space per two (2) washing machines and instead stated it should be one (1) parking space per four (4) washing machines. The staff recommended one (1) parking space per two (2) washing machines as listed in the Parking standards publication developed by the American Planning Association. Mr. Gillie said that staff supports Mr. New's request to change the text to one (1) parking space per four (4) washing machines as Mr. New has more knowledge of local conditions and needs to service his operation.

Council Member Castiglione moved to accept Mr. New's request as amended by the planning staff. The Motion was seconded by Council Member Luther and adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

21. Kevin Wolfgang, on behalf of FasMart at 1794 South Main Street (parcel no. 75913) had made a request to change the zoning from LED-I to HR-C. Mr. Gillie advised that planning is in agreement with Mr. Wolfgang's request, since the map should have reflected the change prior to the meeting of the Planning Commission.

Council Member Archie moved to accept the change from LED-I to HR-C, as supported by the planning staff. The Motion was seconded by Vice-Mayor Williams and adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

22 & 23. Action taken under #6 above.

Mr. Gillie advised that another item had come up that should have been addressed previously:

Remove paragraph #11 on page 259. This was to have been corrected in a previous version, but remains. He said that as a result of the request by Chris Dunlap to allow the service of heavy equipment (Item #7 in the Planning Commission's November 24, 2003 memorandum) in HR-C, the following addition was recommended by the planning staff:

HEAVY EQUIPMENT AND VEHICLE SALE, RENTAL AND SERVICE ESTABLISHMENT:

Any use of land whereon the primary occupation is the sale, rental and ancillary service of trucks of the following vehicle types:

1. Eighteen-wheel trucks and those trucks other than those allowed under the vehicle sale, rental and ancillary service establishments;
2. Farm and construction machinery or equipment;
3. Buses, and vans designed primarily for the transportation of ten (10) or more passengers.

For the purposes of this Ordinance, vehicle service establishments shall not be deemed to include heavy equipment and specialized vehicle sale, rental and ancillary service establishments.

Council Member Saunders moved to add the Heavy Equipment and vehicle sale, rental and service establishment to the "Definitions" section of the ordinance. The Motion was seconded by Council Member Daniels and adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

Planning Director Gillie advised that a Public Hearing was held by the Planning Commission on November 24, 2003 to receive input from citizens and to consider the adoption of the proposed zoning and subdivision ordinance and zoning map for the City of Danville.

At that meeting, the Planning Commission vote 7-0 to recommend approval of the Zoning and Subdivision Ordinance text with modifications to allow for minor editing non-substantive text changes and postproduction editing to correct typographical errors and the future insertion of appropriate artwork and photographs. The Commission also recommended that #10 on Page 114, #6 on page 136, #9 on page 144, and #11 on page 152 all say ten (10) feet instead of the number listed in the code section. The Commission felt that would address a conflict with regulations spelled out in #8 on page 235. The following map changes were also recommended for approval

and reviewed for Council Members by Mr. Gillie as follows:

1. Change parcels 70060 & 58497 from T-R to N-C on Franklin Turnpike as requested by Attorney Lee Yancey on behalf of Ken Ferrell (7-0).
2. Change parcel 75859 from M-R to HR-C on South Main Street as requested by Lee Yancey on behalf of Ken Ferrell (7-0).
3. Change parcels 52136, 52137 & 52141 on Piney Forest Road from S-R to N-C as requested by Lee Yancey on behalf of the Farmer estate (7-0).
4. Change parcels 00028, 00761 & 03345 from OT-R to Central Business-Commercial (CB-C) on North Main Street as requested by Wes Whitfield and Andrea Stone (7-0).
5. Change parcels 52245, 52746, 55399, 57555, 52251, 50024, 54540, 50735, 50748, 60345, 50736, 57421, 52909 & 54216 from OT-R to HR-C on Old Greensboro Road and West Main Street as requested by multiple owners in the Old Greensboro Road area (7-0).
6. Change parcel 73428 from S-R to HR-C on Kentuck Road as requested by Tom Fleming (7-0).
7. Change parcels 54112, 54142 & 54143 from T-R to S-R in Southwyck Farms as requested by Lois Love (6-1 Commissioner Searce voting no).
8. Change parcel 71741 from N-C to S-R at 3032 Westover Drive as requested by various neighbors in the Bromley Road area (7-0).
9. Change parcels 54700, 54707, 54702 & 51956 on Gatewood Avenue from OT-R to LED-I as requested by Attorney Jim Daniel on behalf of Danville Distributing Company.
10. Change parcels 53417 & 53419 on Kentuck Road from OT-R to M-I as requested by Bill Sterner on behalf of Howard Campbell (7-0).
11. Change parcels 01428 & 01275 at 2006 North Main Street from N-C & OT-R to Transitional Office-Commercial (TO-C) as requested by Robert & Kirby Wright (7-0).
12. Change parcels 72666, 72667, 72668 & 72669 on Ingram Road from S-R to Highway Retail-Commercial (HR-C) as requested by Elsie Slayton (7-0).

Council Member Smith said that Highway Retail Commercial was established to provide suitable locations in Danville's heavily traveled collector streets and arterial highways. He said that Ingram Road is neither. He questioned the move to have single-family residences across the street from HR-C. Mr. Smith felt the move would set into motion the ability to have automobile and light vehicle dealerships there that could produce heavy traffic.

In response to Council Member Castiglione, Mr. Gillie said there were no residents of the area who appeared before the Planning Commission Public Hearing to oppose the

move and there was no written opposition that he was aware of.

Council Member Smith moved to reject the Planning Commission's recommendation to zone Elsie Slayton's Ingram Road property from S-R to HR-C and return to the S-R designation. The Motion was seconded by Council Member Daniels and **Failed** by the following vote:

VOTE: 2-6
AYE: Daniels, and Smith (2).
NAY: Archie, Castiglione, Hamlin, Luther, Saunders, and Williams (6).
ABSENT: Rawley (1).

Mayor Hamlin announced the parcels stay as recommended by the Planning Commission.

13. Change parcels 74293, 74294, 72495, 72496, 72497 & 74302 at 11 Old Halifax Road from OT-R to HR-C as requested by Joe Cox (7-0).

14. Change parcel 10600 from OT-R to HR-C on Wendell Scott Drive as requested by Rhonda Womack (7-0).

Mr. Gillie, referring to the 10-ft. setback waiver provisions as recommended above in #12 & #13, said as part of page 255 (landscape requirements, paragraph D1A & 2A providing for where there is driveway which leads to a parking lot or a building entry abutting a public street), should be ten (10) feet and not twenty (20) feet. Mr. Gillie said the waiver provision needed to be added to these paragraphs. City Manager Gwaltney said this would lessen the amount of green space required between the driveways. Mr. Gillie said this would provide for consistency throughout the final document.

City Manager Gwaltney advised he had met with Henry Sasser today regarding signage. Mr. Gwaltney said three or four recommendations were formulated and the recommendations will be considered at a future meeting. Mayor Hamlin requested that Mr. Gwaltney afford Tom Powers of Powers Signs the opportunity to meet with him should Mr. Powers desire to do so.

Mayor Hamlin felt that contractors and builders should be afforded an opportunity to meet with staff for additional input before final action is taken. He said if there were no objections from Council Members, action on the zoning and subdivision ordinances would be tabled in order to give staff sufficient time to return with any additional recommendations.

Council Member Luther moved to **table** action on the zoning and subdivision ordinances to a future date in order to give staff sufficient time to come back with final recommendations. The

Motion was seconded by Vice-Mayor Williams and carried unanimously.

No action was taken on the original motion by Council Member Smith and second by Vice-Mayor Williams to adopt the zoning ordinance.

APPOINT PHIL MAYS TO DANVILLE TOURISM BOARD

Council Member Luther moved the adoption of a Resolution entitled:

RESOLUTION NO. 2003-12.14

A RESOLUTION APPOINTING PHIL V. MAYS AS A MEMBER (HOTEL REPRESENTATIVE) OF THE DANVILLE TOURISM BOARD.

The Motion was seconded by Council Member Daniels and adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

APPOINT JACQUELINE DUMAS TO SOUTHERN AREA AGENCY ON AGING

Council Member Luther moved the adoption of a Resolution entitled:

RESOLUTION NO. 2003-12.15

A RESOLUTION APPOINTING JACQUELINE B. DUMAS AS A MEMBER OF THE SOUTHERN AREA AGENCY ON AGING, INC.

The Motion was seconded by Vice-Mayor Williams and adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

ACCEPT GRANT FROM OFFICE OF DOMESTIC PREPAREDNESS

- Vice-Mayor Williams moved the adoption of a Resolution entitled:

RESOLUTION NO. 2003-12.16

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT FROM THE OFFICE OF DOMESTIC PREPAREDNESS, STATE HOMELAND SECURITY GRANT PROGRAM, TO EQUIP FIRST RESPONDERS TO HAVE BETTER PREPAREDNESS TO COMBAT AND DEAL WITH TERRORIST ACTS INVOLVING WEAPONS OF MASS DESTRUCTION.

Council Member Luther seconded the Motion.

In response to Council Member Daniels, City Manager Gwaltney said generators would be placed at each fire station in order to accommodate citizens should an attack occur in the City. Mr. Gwaltney said no new accessory buildings would be required.

The Resolution was adopted by the following vote:

VOTE: 8-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders,
Smith, and Williams (8).
NAY: None (0).
ABSENT: Rawley (1).

BUDGET AMENDMENT-FY 2003-04-GRANT- DOMESTIC PREPAREDNESS

- Upon Motion by Council Member Luther and second by Council Member Archie, an Ordinance entitled:

ORDINANCE NO. 2003-12.02

AN ORDINANCE AMENDING THE FISCAL YEAR 2003-2004 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR A GRANT IN THE AMOUNT OF \$150,172 FROM THE OFFICE OF DOMESTIC PREPAREDNESS STATE HOMELAND SECURITY GRANT PROGRAM TO EQUIP FIRST RESPONDERS TO HAVE BETTER PREPAREDNESS TO COMBAT AND DEAL WITH TERRORIST ACTS INVOLVING WEAPONS OF MASS DESTRUCTION

was presented by its First Reading, as required by City Charter, to lie over before final adoption.

COMMUNICATIONS

- City Manager Gwaltney called attention to the Comprehensive Annual Financial Report (CAFR) for year ending June 30, 2003. He informed Council Members that representatives from the City's auditing firm, Goodman & Company, would be present during the January 6, 2004 Council Work Session to review the City's financial status and to answer any questions from Council Members.

City Attorney Spencer said this was his last meeting as City Attorney for Danville. Mr. Spencer has accepted a position as Senior Assistant City Attorney for the City of Roanoke. He thanked Council for the opportunity to have served the City during the past six years and congratulated Clarke Whitfield on his appointment as Interim City Attorney.

There were no communications from the Deputy City Manager and City Clerk.

ROLL CALL

Council Members wished everyone a safe, healthy and joyous holiday season.

- Council Member Archie extended best wishes to Tim Spencer. She commended the Public Works Department and others who have worked so diligently on the landscapes around the City. A book containing photographs of landscape sites had been placed at the desk of each Council Member. Mrs. Archie commended the Utilities and Public Works Departments for their excellent employee newsletters.

Mrs. Archie said some citizens had inquired about bus transportation at Ingram Heights. She requested City Manager Gwaltney to meet with Transportation Services Director Marc Adelman and see what could be worked out.

Council Member Castiglione thanked Tim Spencer for all the work he had done for the City and wished him well in his new job. Mr. Castiglione said Director of Support Services for Danville City Schools, Dr. Chris Dunlap, has been asked to be a monthly contributor to a national publication on utilities in school systems. Mr. Castiglione congratulated Mr. Dunlap on his accomplishment.

Council Member Daniels wished the best to Tim Spencer. Mr. Daniels said he enjoyed the pictures of the City's landscaping, which included some private contributions. He said he had received many favorable comments from citizens who had initially expressed concern about the cost to maintain the landscapes.

Mayor Hamlin wished Tim Spencer well in his new position in Roanoke. He expressed appreciation for his accomplishments while employed with the City. Mayor Hamlin advised there is a serious shortage at Danville Regional Medical Center's blood bank and encouraged citizens to give the gift of life.

Council Member Luther wished Tim Spencer the best in his new job. Mr. Luther said at 5:45 p. m. Wednesday afternoon, Senator George Allen and Congressman Virgil Goode would be at the Institute for Advanced Learning and Research and would leave some money in Danville. He encouraged everyone to attend the ceremonies.

Mr. Luther commended WBTM/WAKG for the toy drive that is now under way and asked that everyone who was able to take a toy to the radio station for distribution to less fortunate youngsters in our City. He said the stations' goal is to collect 2,500 new toys.

Council Member Saunders asked that everyone continue to pray for our troops who are deployed overseas. Mr. Saunders lost a cousin during the attack of the USS Cole and asked that we especially remember the families who have lost loved ones. He offered congratulations to Tim Spencer and welcomed Interim City Attorney Clark Whitfield aboard.

Council Member Smith expressed appreciation to Tim Spencer for his service to City Council. Mr. Smith commended the Salvation Army for the wonderful work they do throughout the City.

Mr. Smith said the Virginia Retirement System (VRS) has placed a burden on the School Board by increasing VRS pension plan payments. He said it would put the School Board in a real financial crunch.

Vice-Mayor Williams expressed thanks to Tim Spencer and said he would be missed. Dr. Williams, looking back at the accomplishments of this past year, said it was a pleasure to be a citizen of Danville and a pleasure to work with City Council.

CLOSED MEETING

- At 10:45 P.M. Mayor Hamlin recognized Vice-Mayor Williams who moved that the meeting be recessed and that Council immediately convene in Closed Meeting for discussion, consideration or interview of prospective candidates for employment, assignment, appointment, promotion, performance, salaries, disciplining of specific public employees or appointees as permitted by Subsection (A) (1) of Section 2.2-3711 of the code of Virginia, 1950, as amended, and more specifically to consider the status of the City Attorney position; and, for discussion concerning a prospective business or industry where no previous announcement has been made as permitted by

Subsection (A) (5) of Section 2.2-3711 of the Code of Virginia, as amended, as more specifically to consider the status of several economic development projects, The Motion was seconded by Council Member Smith and carried unanimously.

At 11:20 P.M. Council reconvened in open session and Vice-Mayor Williams moved that Council adopt the following Resolution.

CERTIFICATE OF CLOSED MEETING

WHEREAS, the Council convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia, 1950, as amended, requires a Certification by the Council that such Closed Meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the Council hereby certifies that, to the best of each Member’s knowledge, (i) only public business matters lawfully exempted by the open requirements of Virginia Law were discussed in the Closed Meeting to which this Certification Resolution applies, and (ii) only such public business matters as were identified in the Motion convening the Closed Meeting were heard, discussed, or considered by the Council.

The Motion was seconded by Council Member Luther and adopted by the following vote:

- VOTE: 8-0
- AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Saunders, Smith, and Williams (8).
- NAY: None (0).
- ABSENT: Rawley (1).

The Meeting adjourned at 11:21 P.M.

MAYOR

CLERK